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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/015,280 | 12/12/2001 | Michael Wayne Brown | AUS920010823US1 | 7043 |
| 34533 7590 11/09/2010 INTERNATIONAL CORP (BLF) c/o BIGGERS & OHANIAN, LLP P.O. BOX 1469 AUSTIN, TX 78767-1469 | | | EXAMINER KING, SIMON | |
| | | | ART UNIT 2614 | PAPER NUMBER |
| | | | NOTIFICATION DATE 11/09/2010 | DELIVERY MODE ELECTRONIC |

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL WAYNE BROWN, JOSEPH HERBERT MCINTYRE,
MICHAEL A. PAOLINI,
JAMES MARK WEAVER, and SCOTT LEE WINTERS

Appeal 2009-005412
Application 10/015,280
Technology Center 2600

Before JOSEPH F. RUGGIERO, CARLA M. KRIVAK, and
THOMAS S. HAHN, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-30 and 35-39. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants' claimed invention is a destination device that detects a voice utterance of a callee and then identifies the voice utterance (Abstract; Spec. 5:15-24).

Independent claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method for identifying a particular callee, said method comprising:

detecting, at a destination device, a voice utterance of a callee;
and

identifying, at said destination device, a callee identity associated with said voice utterance, such that said callee identity is transmittable as an authenticated identity of said callee for a call.

REJECTIONS

The Examiner rejected claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, and 35-39 under 35 U.S.C. § 102(e) based upon the teachings of Gallick (US 6,678,359 B1).

The Examiner rejected claims 2, 13, and 24 under 35 U.S.C. § 103(a) based upon the teachings of Gallick and Bartholomew (US 6,167,119).

The Examiner rejected claims 3, 14, and 25 under 35 U.S.C. § 103(a) based upon the teachings of Gallick and McAllister (US 6,101,242).

The Examiner rejected claims 6, 17, and 28 under 35 U.S.C. § 103(a) based upon the teachings of Gallick and Timonen (US 2002/0058494 A1)

The Examiner rejected claims 9 and 20 under 35 U.S.C. § 103(a) based upon the teachings of Gallick and Baker (US 5,533,109).

Appellants contend Gallick does not teach identifying a callee identity associated with a voice utterance at a destination device, (App. Br. 6)

ANALYSIS

Rejection under 35 U.S.C. § 102(e)

The Examiner relied on the Gallick reference for all of the features of Appellants' claims 1, 4, 5, 7, 8, 10-12, 15, 16, 18, 19, 21-23, 26, 27, 29, 30, 35-39. Particularly, the Examiner finds the VoIP software 141 (voice identification recognizer) corresponds to Appellants' claimed destination device (Ans. 4).

Appellants assert Gallick's voice identification recognizer is located on a personal computer or network where a softphone resides and thus, does not teach "'identifying, at said destination device, a callee identity'" as claimed (App. Br. 7). Appellants, however, have failed to persuade us that Gallick's voice identification recognizer does not correspond to the destination device of their system.

We agree with the Examiner's findings and also find the claim language, as broadly written, does not preclude the destination device from residing on a personal computer or network (Ans.11). In fact, Appellants' Specification states the destination device may include network servers, etc. (Spec. 24: 9-13). Thus, Gallick teaches the destination device of Appellants' claimed invention.

Rejection under 35 U.S.C. § 103

Appellants' arguments with respect to dependent claims 2, 3, 6, 9, 13, 14, 17, 20, 24, 25, and 28 are based on the premise that Bartholomew, McAllister, and Timonen do not teach the destination device (App. Br. 16,

19, and 21). However, these references were not cited for the destination device, but for the features recited in the dependent claims. Thus, for the reasons set forth above and those set forth in the Examiner's findings, which we adopt as our own, claims 2, 3, 6, 9, 13, 14, 17, 20, 24, 25, and 28 are obvious with respect to the collective teachings of these references.

DECISION

The Examiner's decision rejecting claims 1-30 and 35-39 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

KIS

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